

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**  
10

11 YOLIE PEREZ,

12 Plaintiff(s),

13 v.

14 COMMISSIONER OF SOCIAL SECURITY,

15 Defendant(s).

Case No.: 2:18-cv-02010-APG-NJK

**Order**

[Docket No. 6]

16 On October 22, 2018, the Court screened Plaintiff's complaint and found that she failed to  
17 state a claim. Docket No. 3.<sup>1</sup> In particular, the Court found that:

18 Most significantly, the complaint indicates that Plaintiff disagrees  
19 with a decision to deny benefits, but it is not clear which decision is  
20 being challenged (*i.e.*, an initial denial, a denial upon  
21 reconsideration, a denial by an ALJ, or a denial by the Appeals  
22 Council). As such, it is not clear that Plaintiff exhausted her  
administrative remedies within the Social Security Administration.  
Similarly, it is not clear when a final decision was made (if one has  
been made), so the Court cannot determine whether this action was  
commenced in a timely manner.

23 *Id.* at 2. The Court therefore dismissed the complaint without prejudice, and ordered that any  
24 amended complaint must cure these deficiencies. *See id.* at 2-3.  
25  
26

27  
28 <sup>1</sup> As Plaintiff is proceeding *pro se*, the Court construes her filings liberally. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

1 Plaintiff has now filed an amended complaint that continues to suffer from the same  
2 deficiencies. Docket No. 6. As such, the amended complaint will be dismissed. Given Plaintiff's  
3 *pro se* status, the Court will afford one additional opportunity to cure the defects identified herein.  
4 The Court reiterates that a complaint in this context must allege that the claimant exhausted her  
5 administrative remedies and timely sought relief in this Court. **Such a complaint should state**  
6 **whether the claimant's claims were denied by the Appeals Council and, if so, the date on**  
7 **which that denial was made.** If Plaintiff has not yet completed the administrative process (*i.e.*,  
8 an initial decision, a decision upon reconsideration, a decision by an ALJ, and then a decision by the  
9 Appeals Council), she must do that before seeking relief from this Court.

10 Accordingly, the Court hereby **ORDERS** as follows:

- 11 1. The amended complaint is hereby **DISMISSED** without prejudice. If Plaintiff believes  
12 she can cure the deficiencies noted herein, a second amended complaint shall be filed  
13 by November 21, 2018. If Plaintiff chooses to further amend the complaint, Plaintiff  
14 is informed that the Court cannot refer to a prior pleading in order to make a second  
15 amended complaint complete. This is because, as a general rule, amended complaints  
16 supersede the original complaint and previously-filed amended complaints. Local Rule  
17 15-1(a) requires that an amended complaint be complete in itself without reference to  
18 any prior pleading. Once a plaintiff files an amended complaint, the original complaint  
19 and any previously-filed amended complaints no longer serve any function in the case.  
20 Therefore, in an amended complaint, each claim and the involvement of each  
21 Defendant must be sufficiently alleged.
- 22 2. **Failure to file a second amended complaint as required herein will result in a**  
23 **recommendation that this case be dismissed without prejudice.**

24 IT IS SO ORDERED.

25 Dated: October 30, 2018

26  
27   
28 Nancy J. Koppe  
United States Magistrate Judge